

**THE REAL ESTATE COUNCIL OF ALBERTA**

**IN THE MATTER OF** Section 39(1)(b)(i), s.41 and s.47(1) of the *REAL ESTATE ACT*,  
R.S.A. 2000, c.R-5

**AND IN THE MATTER OF** a Hearing regarding the conduct of STEVE SEDGWICK,  
currently registered with Noralta Real Estate Inc. operating as Royal Lepage Noralta  
Real Estate

**Hearing Panel Members:** Stan Mills, Chair  
Stan Kushner  
Julia Jones

**Appearances:** Tracy Leonardo, Counsel for the Executive Director of the  
Real Estate Council of Alberta ("RECA")  
Philip J. Prowse, Counsel for Steve Sedgwick

**Hearing Date:** October 22, 2018

**DECISION OF A HEARING PANEL ON CONDUCT DESERVING OF SANCTION AND  
DECISION ON SANCTION AND COSTS**

A. Introduction

The parties submitted to the Hearing Panel an Admission of Conduct Deserving of Sanction document signed by Mr. Sedgwick and dated October 5, 2018 that included a Schedule with Agreed Breaches and Agreed Facts. The document is attached to this Decision as Schedule "A". The parties also submitted a Joint Submission on Sanction dated October 18, 2018 which is attached to this Decision as Schedule "B".

Mr. Sedgwick, the Industry Member, has been authorized to trade in real estate since 2001. The conduct deserving of sanction admitted to by Mr. Sedgwick occurred in 2017 and was with respect to a forged Exclusive Buyer Representation Agreement (the "Agreement"). When his clients, the complainants, asked if they had signed an Agreement, he forged their signatures by copying and pasting their signatures from a previously signed document and presented it as having been executed by them. The conduct deserving of sanction was also with respect to Mr. Sedgwick's conduct during the RECA investigation wherein he presented the forged Agreement as having been signed by his clients. He also stated he had obtained a handwriting analysis report and included quoted excerpts from the alleged report in his correspondence with RECA but did not provide the report.

Mr. Sedgwick admitted to breaching section 38(4)(a) (it was incorrectly referred to as section 38(4)(b) in the Admission of Conduct Deserving of Sanction but was corrected in the Joint Submission on Sanction which was executed on a later date) of the *Real Estate Act* and *Real Estate Act Rule 42(b)*.

Section 38(4)(a) of the *Real Estate Act* was breached when Mr. Sedgwick:

- presented a forged Agreement to the RECA investigator claiming it was an original copy
- made a misrepresentation to the RECA investigator that he had obtained a handwriting analysis report regarding the forged document but failed to provide the report when requested; and
- provided a false written statement to RECA stating the Agreement was signed and that he had an original version and continued to be dishonest in his written response and other communications throughout the RECA investigation

The second breach was of *Real Estate Act Rule 42(b)* which was breached when Mr. Sedgwick:

- lied to his client when they asked if they had signed an Agreement;
- fraudulently created an Agreement by copying and pasting the initials and signatures of his clients from a different document
- lied to his broker when he questioned him about the Agreement, which was to his benefit and to ensure that he would receive commission; and
- sent an email to the clients with the forged Agreement to convince his clients that they had entered into a contract, which was to his benefit and to ensure he would receive commission

The parties jointly proposed sanction for these breaches as follows:

- fine of \$10,000.00 for the breach of section 38(4)(a) of the *Real Estate Act*
- fine of \$15,000.00 for the breach of *Real Estate Act Rule 42(b)*
- three (3) month suspension of his authorization to trade in real estate under the *Real Estate Act*
- completion of an educational upgrade course: Ethics, Professionalism and Risk Reduction within six months of the Hearing Panel's decision being issued; and
- costs of the investigation and proceedings in the sum of \$1,590.00 which includes the cost of a forensic document examiner report

## B. Issues

1. Whether the conduct admitted to by Mr. Sedgwick constituted conduct deserving of sanction; and

2. If the conduct is deserving of sanction, whether the sanctions proposed by the parties in the joint submission on sanction is appropriate in the circumstances.

C. Applicable sections of the *Real Estate Act* and *Real Estate Act Rules*

Sections 46 and 47 of the *Real Estate Act* refer to situations where the Industry Member admits to conduct deserving of sanction, as follows:

46(1) An industry member may, at any time after the commencement of proceedings under this Part and before a Hearing Panel makes its findings in respect of the industry member's conduct, submit to the executive director a statement of admission of conduct deserving of sanction in respect of all or any of the matters that are the subject matter of the proceedings.

(2) A statement of admission of conduct may not be acted on unless it is in a form acceptable to the executive director and meets any additional requirements set out in the rules.

47(1) If a statement of admission of conduct is accepted, the executive director shall immediately refer the matter to a Hearing Panel, and in that case the Hearing Panel shall deal with the matter as if it had been referred to it under section 39(1)(b).\*

(2) If a statement of admission of conduct is accepted, each admission of conduct in the statement in respect of any act or matter regarding the industry member's conduct is deemed for all purposes to be a finding of the Hearing Panel that the conduct of the industry member is conduct deserving of sanction.

\*Section 39(1)(b) states that the Executive Director may refer a matter to a Hearing Panel if he or she determines there is sufficient evidence of conduct deserving of sanction.

Mr. Sedgwick admitted he breached section 38(4)(a) of the *Real Estate Act* and *Real Estate Act Rule* 42(b) which are as follows:

38(4) A person who is required under subsection (2)\* to answer the questions of a person conducting an investigation

- (a) shall co operate with the investigator and promptly respond to the questions, and

\*Section (2) states: A person conducting an investigation may

- (a) by notice in writing demand that any person produce to the investigator any books, documents, records and other things in that person's possession or under that person's control that are relevant to the investigation,
- (b) demand that any person answer any questions that are relevant to the investigation,
- (c) copy by electronic or other means, and keep copies of, anything produced under clause (a), and
- (d) record by audio or video or by other means any answers provided under clause (b).

42 Industry members must not:

- (b) participate in fraudulent or unlawful activities in connection with the provision of services or in any dealings;

#### D. Exhibits

The following exhibits were entered at the Hearing:

- 1) Notice of Hearing dated September 17, 2018
- 2) Affidavit of Service dated September 28, 2018
- 3) Admission of Conduct Deserving of Sanction dated October 5, 2018
- 4) Joint Submission on Sanction dated October 18, 2018 and case law to support:

Tab 1 *Jaswal v. Medical Board (Nfld.)*, 1996 CanLII 11630 (NL SCTD);

Tab 2 *Adams v. Law Society of Alberta*, 2000 ABCA 240 (CanLII);

Tab 3 *Law Society of Upper Canada v Lambert*, 2014 ONLSTH 158 (CanLII);

Tab 4 *Checkley, Glen*, Real Estate Council of Alberta 2014;

Tab 5 *Banwait, Rajwant Kaur*, Real Estate Council of Alberta 2014;

Tab 6 *Lalji, Aliya*, Real Estate Council of Alberta 2016;

Tab 7 *Palibroda, Richard*, Real Estate Council of Alberta 2008;

Tab 8 *Marsh, Christy*, Real Estate Council of Alberta 2013;

Tab 9 *Fan, Stephanie*, Real Estate Council of Alberta 2012;

Tab 10 *R. v. Anthony-Cook*, 2016 SCC 43, 2016 CSC 43, 2016 Carswell BC 2929;

- 5) Statement of Mr. Sedgwick.

#### E. Submissions

Counsel for the Executive Director presented an oral summary of the Joint Submission on Sanction, including a review of the authorities provided. Counsel for Mr. Sedgwick concurred with the summary and submitted that Mr. Sedgwick agreed to the proposed joint sanction.

It was submitted that the Hearing Panel ought to consider the relevant factors set out in *Jaswal v. Medical Board (Nfld.)*, *supra*, when assessing whether the jointly proposed sanction was appropriate. A summary of those factors and their application to Mr. Sedgwick's conduct and circumstances, as well as the joint submissions, as presented to the Hearing Panel are summarized below.

#### **The age and experience of the Industry Member**

Mr. Sedgwick is currently 43 years old and was authorized to trade in real estate since 2001. He served as Chairman of the Board for the Realtors Association of Edmonton in 2016. Given his lengthy experience in the industry, he ought to have been aware that his conduct was unacceptable.

#### **The previous character of the Industry Member**

Mr. Sedgwick had no disciplinary history.

#### **The number of times the offence was proven to have occurred**

There was one breach of *Real Estate Act Rule 42(b)* and multiple breaches of the failure to cooperate with a RECA investigator under section 38(4)(a) of the *Real Estate Act*.

#### **The nature and gravity of the proven allegations**

Mr. Sedgwick's behavior negatively effects professionalism and trust with clients which is fundamental to the real estate industry. His conduct was serious in nature and gravity as it impacts the industry's credibility and the trust clients place in the real estate industry.

#### **The need to maintain the public's confidence in the integrity of the real estate industry**

It was submitted that real estate associates must practice in strict compliance with the *Real Estate Act* and the *Real Estate Act Rules* in order to maintain the integrity of the industry. Public confidence in the industry is compromised when a real estate associate does not comply with the *Real Estate Act* or the *Real Estate Act Rules*.

In *Adams v. Law Society of Alberta*, *supra*, the Alberta Court of Appeal noted that public confidence in a profession should be of the utmost importance to disciplinary bodies:

A professional misconduct hearing involves not only the individual and all the factors that relate to that individual, both favorably and unfavorably, but also the effect of the individual's misconduct on both the individual client and generally on the profession in question. This public dimension is of critical significance to the mandate of professional disciplinary bodies.

In *Law Society of Upper Canada v Lambert*, *supra*, a hearing panel for the Law Society of Upper Canada added that a profession's most valuable asset is its collective

reputation and this must be considered in determining an appropriate sanction. The hearing panel stated:

When determining the appropriate penalty for this misconduct, the panel is guided by the reasons or purposes for a penalty order in discipline matters set out in *Law Society of Upper Canada v. Strug* and in *Bolton, supra*, in which Sir Thomas Bigham M.R. stated at p.519, "A profession's most valuable asset is its collective reputation and the confidence which that inspires".

It was submitted that Mr. Sedgwick's conduct undermined the trust the public places in real estate professionals when they enter into agreements for services with industry members. Therefore, both a fine and suspension are required to maintain and protect public confidence in the Alberta real estate industry.

#### **The role of the industry member in acknowledging what occurred**

Mr. Sedgwick took responsibility for his actions and signed an agreement pursuant to section 46 of the *Real Estate Act*.

#### **Impact of the incident on the complainant**

The complainants incurred over \$3000.00 in expenses for a handwriting analysis and legal costs to hire counsel to withdraw from the fraudulent Agreement.

The complainants could not continue their search for a new home until they were able to negotiate a release from their Agreement with Mr. Sedgwick and the brokerage. They had to deal with the stress associated with closing the sale transaction on their existing home, as conditions remained that they had to satisfy while they were trying to end their relationship with Mr. Sedgwick and work with the brokerage.

#### **General and specific deterrence**

General deterrence refers to the effect a sanction issued in one case will have dissuading others to become involved in the same conduct. It was submitted that there was a need for general deterrence as industry members generally must recognize that harm to public confidence in the Alberta real estate industry comes with sanctions.

It was submitted that there was also a need for specific deterrence in this matter. Specific deterrence refers to the effect a sanction has to correct the conduct of the person who is sanctioned. Although Mr. Sedgwick did not have a discipline history and there was no evidence that he engaged in the same conduct prior to or after the investigation, his lack of acknowledgement of the gravity of his conduct and his willingness to lay blame with the complainants and their influence on his behaviour, required specific deterrence.

### Mitigating circumstances

Mr. Sedgwick admitted he created a fraudulent Agreement and entered into an Admission of Conduct Deserving Sanction, reducing the time and expense of a hearing.

### Previous sanctions in similar circumstances

#### Breach of *Real Estate Act Rule 38(4)(a)*

1. *Glen Checkley, supra*

This was an administrative penalty issued in June 2014. Mr. Checkley failed to respond to multiple requests for information from a RECA investigator. He eventually responded that he either would not provide the information or was unable to locate or produce records. He was found to breach section 38(4) of the *Real Estate Act* and was issued a penalty of \$10,000.00.

2. *Rajwant Kaur Banwait, supra*

This was a decision of a hearing panel in July 2014, with a decision on costs and sanction issued in October 2014. After Ms. Banwait received notice that she was the subject of a professional conduct review, she made some contact with the RECA investigator but neglected to provide requested information despite giving assurances that she would comply with the information requests. She was fined \$20,000.00 for two breaches of section 38(4) and Rule 41(h) of the *Real Estate Act Rules*.

3. *Aliya Lalji, 2016 RECA, supra*

This was a consent agreement ratified by a hearing panel in March 2016. Ms. Lalji was found to have breached *Real Estate Act Rules 41(a)* and *41(h)*. She provided an altered document to RECA during the investigation, was dishonest with RECA during the investigation, drafted a fraudulent letter to RECA and tried to influence possible witnesses in the investigation. She was fined a global sum of \$20,000.00 for breaches of Rules 41(a) and 41(h).

4. *Richard Palibroda, supra*

This was a consent agreement ratified by a hearing panel in January 2008. Mr. Palibroda was found to have breached *Real Estate Act Rule 41(h)* when he prepared a letter to the RECA Executive Director giving the appearance that he had made a disclosure to a different disciplinary body when he had not. He was fined a global amount of \$4,000.00 for breaches of the *Real Estate Act Rules 15(3)(a)*, *40(1)(b)*, *41(h)* and *38(4)*.

It was submitted that Mr. Sedgwick presented a forged document to RECA during the investigation in an attempt to mislead or deceive the RECA investigator which was similar to the conduct of Ms. Lalji and Mr. Palibroda.

It was also submitted that, similar to the conduct of Mr. Checkley and Ms. Banwait, Mr. Sedgwick did not provide documentation requested by the investigator, including a copy of a report from a document examiner. He claimed that he was unable to locate or produce a copy of the report, even though he included excerpts from the report in his written response to the RECA investigator.

Moreover, it was submitted that the conduct of Mr. Sedgwick was more egregious than that of Mr. Checkley and Ms. Banwait because they did not provide documentation to RECA as requested but Mr. Sedgwick provided information that was intentionally misleading. His actions were an attempt to influence the result of the investigation. Therefore, it was submitted that the appropriate sanction for the breaches of section 38(4)(a) of the *Real Estate Act* ought to be \$10,000.00.

Breach of *Real Estate Act* Rule 42(b):

1. *Christy Marsh, supra*

This was a consent agreement ratified by a hearing panel in December 2013. Ms. Marsh was found to have breached Rule 42(b) when she hired an unlicensed property inspector and provided him with a report from a previous property inspection so that he could use it as a template to create a false property inspection report for her client. She then provided this false inspection report to her client and lied about the method of payment for the report. She was fined \$7,000.00.

2. *Aliya Lalji, supra*

As cited above, this was a consent agreement ratified by a hearing panel in March 2016. Ms. Lalji was found to have breached Rule 42(b) for altering contracts, creating false documents and forging signatures on multiple documents that were relied on by third parties. She was fined \$20,000.00 for these breaches.

It was submitted that Mr. Sedgwick made false statements to his clients, his broker and to RECA during the investigation. Mr. Sedgwick was dishonest with multiple parties over time, in an attempt to cover his conduct and escape culpability, which was similar conduct to Ms. Marsh and Ms. Lalji.

It was also submitted that Mr. Sedgwick created a fraudulent Agreement which was conduct that was more egregious than that of Ms. Marsh. He was directly involved in the creation of a fraudulent document by copying and pasting the signatures of his clients from one agreement to another. Ms. Marsh participated in activities that led to a false document, but there was no clear indication that she solely created a forged inspection report.



Mr. Sedgwick's conduct was less egregious when compared to that of Ms. Lalji as his conduct was limited to the forgery of one document and not multiple documents. However, the inducement to create false documents to benefit the industry member was the same in both situations. Therefore, it was submitted that an appropriate sanction for Mr. Sedgwick's breach of *Real Estate Act Rule 42(b)* was \$15,000.00.

## Suspension

It was submitted that the participation in fraudulent conduct, especially in creating false documents or forging signatures on documents, with the intention to mislead or deceive clients, other industry members and third parties was particularly egregious and harmful to the industry. As such, additional punitive measures, such as a suspension ought to be considered to encourage both specific and general deterrence. Similar suspension sanctions were imposed in the following cases:

1. *Stephanie Yuen-Shen Fan, supra*

This was a consent agreement ratified by a hearing panel in September 2012. Ms. Yuen-Shen Fan was found to have breached *Real Estate Act Rule 42(b)* for forging the signature of a tenant on a receipt for the return of a damage deposit on a property that she managed. She used this receipt to mislead the property owner to believe the tenant had received the funds when they had not. She was fined a global sum of \$12,000.00 and was suspended for 18 months.

2. *Christy Marsh, supra*

As cited above, Ms. Marsh was suspended for 3 months for breaching *Real Estate Act Rules 41(a), 41(b), 41(d) and 42(b) and 53(c)*. In regard to *Rule 42(b)*, she participated in fraudulent actions that led to a false inspection report that she presented to her client.

3. *Aliya Lalji, supra*

As cited above, this was a consent agreement ratified by a hearing panel in March 2016. Ms. Lalji was suspended for 18 months for breaches of *Real Estate Act Rules 42(a), 42(b), 41(h) and 41(a)*.

It was submitted that in consideration of the above cases, that an appropriate suspension of Mr. Sedgwick's authorization to trade in real estate under the *Real Estate Act* would be for a period of three months.

During the hearing Mr. Sedgwick read a statement to the Hearing Panel that stated, among other things, that he deeply regretted his conduct and was remorseful.

## F. The Hearing Panel's Decision

Pursuant to section 47(2) of the Act, the admissions in the Admission of Conduct Deserving of Sanction document are deemed for all purposes to be a finding of this Hearing Panel and that conduct is conduct deserving of sanction. Accordingly, the Hearing Panel finds that Mr. Sedgwick engaged in conduct deserving of sanction, specifically that he breached Section 38(4)(a) of the *Real Estate Act* when he:

- presented a forged Agreement to the RECA investigator claiming it was an original document;
- made a misrepresentation to the RECA investigator that he had obtained a handwriting analysis report but failed to provide a complete copy of the report when requested;
- provided a false written statement to RECA stating the Agreement was signed and that he had an original version and continued to be dishonest in his written response and other communications throughout the investigation.

Mr. Sedgwick also breached *Real Estate Act Rule 42(b)* when he:

- lied to his client when asked if they had signed an Agreement;
- fraudulently created an Agreement by copying and pasting the initials and signatures of his clients from their Exclusive Seller Representation Agreement;
- lied to his broker when he questioned him about the Agreement, which was to his benefit and to ensure he would receive commission; and
- sent an email to the clients with the forged Agreement to convince his clients they had entered into a contract, which was to his benefit and to ensure he would receive commission.

The Hearing Panel considered the sanction that was jointly proposed by the parties and found it appropriate given all the factors to be considered as set out in *Jaswal, supra*.

The Hearing Panel also considered *R v. Anthony-Cook, supra* and the public interest test set out in that case. The public interest test states a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest.

The authorities provided to the Hearing Panel supported the fines and suspension agreed to by the parties for breaches of the *Real Estate Act* and the *Real Estate Act Rule*. The Hearing Panel agrees that the educational course being proposed for Mr. Sedgwick to complete will assist him in performing services for his clients in the future.

## G. Conclusion

Pursuant to section 47(2) of the *Real Estate Act*, the Hearing Panel has determined that Mr. Sedgwick engaged in conduct deserving of sanction. For the reasons set out in this decision, the Hearing Panel agrees with the sanction jointly proposed by the parties and pursuant to section 43 of the *Real Estate Act*, the Hearing Panel orders the following sanction:

- fine of \$10,000.00 for the breach of section 38(4)(a) of the *Real Estate Act*
- fine of \$15,000.00 for the breach of *Real Estate Act Rule 42(b)*
- three (3) month suspension of authorization to trade in real estate under the *Real Estate Act* commencing when the Hearing Panel's decision is issued
- completion of an educational upgrade course: Ethics, Professionalism and Risk Reduction within six months of the Hearing Panel's decision being issued; and
- costs of the investigation and proceedings in the sum of \$1590.00 which includes the cost of a forensic document examiner report.

This Decision is dated this 6th day of November, 2018.

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Stan Mills, Hearing Panel Chair

## SCHEDULE "A"

### THE REAL ESTATE COUNCIL OF ALBERTA

Case :	007180
Process:	A Hearing under Part 3 of the <i>Real Estate Act</i>
Industry	Steve Sedgwick
Member: Class	Real Estate Associate
of License:	Currently registered with Noralta Real Estate Inc.
Registration:	o/a Royal LePage Noralta Real Estate
Document:	ADMISSION OF CONDUCT DESERVING OF SANCTION

1. I, Steve Sedgwick, acknowledge that I have been given an opportunity to seek the advice of a lawyer before I sign this Admission.
2. I agree to this Admission voluntarily.
3. I admit to the facts and breaches set out in Schedule A" and admit that my conduct is deserving of sanction.

DATED this 5<sup>th</sup> day of October, 2018

Steve Sedgwick (originally signed)

\_\_\_\_\_ (originally signed)  
Witness Signature

\_\_\_\_\_ (originally printed)  
Print name of Witness

Witness must swear or affirm the Affidavit of Execution below.

This admission of conduct deserving of sanction is accepted by the Executive Director on October 18, 2018.

Charles Stevenson (originally signed)

for Bob Myroniuk, Executive Director  
of the Real Estate Council of Alberta

## Schedule "A"

1. Steve Sedgwick (hereinafter "Mr. Sedgwick") and the Executive Director agree to the following:

### Agreed Breaches

2. It is agreed that the below conduct is deserving of sanction for the following breaches:
  - a. Mr. Sedgwick did not cooperate fully with the investigator, contrary to s. 38(4)(b) of the *Real Estate Act*:
    - i. Mr. Sedgwick presented a forged Exclusive Buyer Representation Agreement to the investigator claiming that it was an original copy;
    - ii. Mr. Sedgwick made a misrepresentation to the investigator that he had obtained a handwriting analysis, but failed to provide a complete copy of the report when asked for it by the investigator;
    - iii. Mr. Sedgwick provided a false written statement to RECA stating the buyer brokerage agreement was signed and that he had an original and continued to be dishonest in his written response and other communications throughout the investigation;
  - b. Mr. Sedgwick participated in fraudulent *or* unlawful activities in connection with the provision of services *or* in any dealings, contrary to s. 42(b) of the *Real Estate Act Rules*:
    - i. Mr. Sedgwick lied to his client when he was asked if they had signed an Exclusive Buyer Representation Agreement with him;
    - ii. Mr. Sedgwick fraudulently created an Exclusive Buyer Representation Agreement by copying and pasting the initials and signatures of his clients from their Exclusive Seller Representation Agreement;

- iii. Mr. Sedgwick lied to his broker when he questioned him about the Exclusive Buyer Representation Agreement, which was to his benefit and to ensure that he would receive commission;
- iv. Mr. Sedgwick sent an email to the client with the forged agreement to convince the client that they had entered into a contract, which was to his benefit and to ensure he would receive commission;

### Agreed Facts

3. Mr. Sedgwick has been licensed as a real estate associate with the Real Estate Council of Alberta ("RECA") since July 31, 2001.
4. At all material times, he has been registered with Noralta Real Estate Inc. o/a Royal LePage Noralta Real Estate.
5. Mr. Sedgwick has no prior discipline history with RECA.
6. On or about February 21, 2017, F.H. and E.H. [(the "H's")] retained Mr. Sedgwick through an Exclusive Seller Representation Agreement (the "Listing Agreement") to sell their home located at (address), Alberta. Mr. Sedgwick presented the Listing Agreement to [(the "H's")] on his tablet and the clients signed electronically. [(The "H's")] also signed a paper copy of a Consumer Relationships Guide.
7. After their meeting on February 21, 2017, Mr. Sedgwick sent an email to the [(the "H's")] with copies of a signed Listing Agreement and a Consumer Relationships Guide attached, stating in the email, *"Attached are the documents we completed tonight."*
8. Mr. Sedgwick sold [(the "H's")] property on March 19, 2017, with a possession date of June 23, 2017.
9. Between the period of February 2017 and April 2017, Mr. Sedgwick assisted [(the "H's")] in locating potential properties for them to purchase by sending MLS listings, arranging viewings, and attending with them at scheduled viewings.

10. On or about April 18, 2017, [(the "H's")] sent an email to Mr. Sedgwick stating:

*"Good Evening Steve, at this point E. and I would like to continue our house search with another buying agent."*

[(The "H's")] further state in the email:

*"To that end, we do not recall signing a buyer's agreement with you, however, if we did please let us know. If we did sign a buyers agreement, we respectfully request to break this agreement."*

11. On or about April 19, 2017, Mr. Sedgwick emailed [(the "H's")] to suggest that they meet in person to discuss their concerns with his service. He states, *"You gave me your word that I would be finding you a home"*.
12. On or about April 19, 2017, [(the "H's")] emailed Mr. Sedgwick that they have already made their decision to not continue with his services and that they are not interested in meeting with him. They again ask for a copy of a Buyer Agreement. Mr. Sedgwick replied on the same date:

*"You do have me retained under a buyer brokerage agreement and I have not yet heard sufficient cause to end that agreement. If you have breached that agreement (either knowingly or accidentally) please be honest with me about if"*

13. [(The "H's")] responded with another request for a copy of the Buyer Agreement. Mr. Sedgwick advised by email that he will send a copy the next day.
14. Mr. Sedgwick did not send a copy of the Buyer Agreement the next day. [(The "H's")] sent another email to request a copy.
15. On or about April 21, 2017, Mr. Sedgwick sent an email to [(the "H's")] with an attached copy of a Buyer Agreement, signed and initialed by the clients on February 21, 2017. The email states:

*"As promised, here is another copy of the buyer brokerage agreement we completed the evening we listed. I've taken the liberty of highlighting the key aspects of the contract I would like you to note."*



16. Mr. Sedgwick forged the signatures of [(the "H's")] on this Buyer Agreement, which was created some time before he sent it.
17. [(The "H's")] had a phone conversation and sent an email to the broker, T.S, on April 21 2017, regarding their concerns with Mr. Sedgwick, their suspicions that the Buyer Agreement had been forged, and their request to be released from the Buyer Agreement. They were told that the broker would look into the issue and get back to them. They did not receive a response.
18. [(The "H's")] initiated a RECA complaint on May 1 2017.
19. When Mr. Sedgwick's broker, T.S, asked him if he had falsified [(the "H's")] signature on the Buyer Agreement, he said that [(the "H's")] signed it at the same time as the Listing Agreement and that he just forgot to send them a copy in the same email with the Listing Agreement.
20. During the investigation of the complaint, Mr. Sedgwick was asked by the investigator to provide an original copy of the Buyer Agreement. He presented the forged Buyer Agreement and claimed that it was the original copy.
21. Mr. Sedgwick stated that he obtained his own handwriting analysis report, upon learning that [(the "H's")] had one completed. He includes quoted excerpts from the alleged report in his written response to RECA. When asked by the investigator for a copy of the report or the name of the document examiner, he is unable to provide this information.

#### Agreed Factors on Sanction

22. It is agreed that the following facts are relevant as mitigating factors:

- a. There is no disciplinary history for Mr. Sedgwick;
- b. Mr. Sedgwick has agreed to forego the time and expense of a hearing, saving witnesses the inconvenience and stress of appearing, by entering into the within Consent Agreement.

23. It is agreed that the following facts are relevant as aggravating factors:

- c. Mr. Sedgwick was not honest or forthcoming throughout the investigation although he had multiple occasions to admit to his conduct;
- d. Mr. Sedgwick maintained throughout the investigation that he had provided an original copy of the Exclusive Buyer Representation

Agreement to RECA, even though he knew it was not an original and was a fraudulent copy;

- e. Mr. Sedgwick claimed that he had his own document analysis completed, and provided excerpts from the preliminary report, but could not reproduce a copy for RECA upon request or provide the name of the examiner;
- f. Mr. Sedgwick misled and deceived [(the "H's")] by sending them an email on April 21 2017, with the Buyer Agreement attached, insisting that they had signed the document, and that they were bound by this Agreement;
- g. Mr. Sedgwick would not agree to release [(the "H's")] from the Buyer Agreement, even though he was aware that the Buyer Agreement was fraudulent;
- h. Mr. Sedgwick would not agree to release [(the "H's")] from the fraudulent Buyer Agreement, even though he has an EZ Exit Agreement for his clients to rely on if they no longer want to utilize his services;
- l. When confronted by the client, his broker, and RECA regarding the Buyer Agreement, instead of admitting to his conduct, he attempted to cover it up and escape culpability.
- j. [(The "H's")] had to expend costs to engage a forensic document examiner to review the Buyer Agreement and a lawyer to terminate the relationship with Mr. Sedgwick and his brokerage;
- k. RECA had to expend costs to order the full report from the forensic document examiner;
- l. Mr. Sedgwick has shown little remorse and has laid blame with [(the "H's")] throughout the investigation by stating that they were "evasive", "toxic", and "manipulative" and, ultimately, that it was his frustration with them that led to his conduct;
- m. Mr. Sedgwick is an experienced real estate associate who has been licensed for 17 years. He also has acted as Chairman of the Board for the Realtors Association of Edmonton in 2016. He should have known that his conduct was fraudulent and egregious.

AFFIDAVIT OF EXECUTION

I, S.S. of the City/Town of Edmonton  
(print name of witness)

in the Province of Alberta, swear or affirm that:

1. I was personally present to see STEVE SEDGWICK named in the attached Admission. who is personally known to me. sign the Admission.
2. The Admission was signed at the City/Town of Edmonton in the Province of Alberta.
  
3. I know STEVE SEDGWICK and I believe they are eighteen years old or older.

SWORN OR AFFIRMED before me at )  
The City/Town of Edmonton )  
In the Province of Alberta on this )  
5<sup>th</sup> day of October, 2018 ) S.S. (originally signed  
) (signature of witness)  
Philip J. Prowse (originally signed) )  
A Commissioner for Oaths in and for )  
Alberta )

PHILIP J. PROWSE  
BARRISTER &  
SOLICITOR

SCHEDULE "B"

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 007180  
Process: A Hearing under Part 3 of the *Real Estate Act*  
Industry Member: Steve Sedgwick  
Class of License: Real Estate Associate  
Registration: Noralta Real Estate Inc. o/a Royal Lepage  
Noralta Real Estate  
Document: JOINT SUBMISSION ON SANCTION

Introduction

- 1 The Industry Member has agreed to an Admission of Conduct Deserving of Sanction under section 38(4)(a) of the *Real Estate Act* and Rule 42(b) of the *Rules* made pursuant to the *Real Estate Act*, RSA 2000, c. RS.
- 2 The Admission is accepted by the Executive Director and has been entered as an exhibit in the hearing.
3. Under s.47 of the *Real Estate Act* the Admission is deemed to be a finding of this Panel and concludes Phase 1 of the hearing.
4. Phase 2 of the hearing concerns sanction.
5. The Executive Director and Industry Member propose the following sanction:

- Monetary Fines

Section 38(4)(a) of the <i>Real Estate Act</i>	\$10,000.00
Rule 42(b) of the <i>Real Estate Act Rules</i>	\$15,000.00

- Suspension

Mr. Sedgwick's authorization to trade in real estate under the Real Estate Act shall be suspended for a period of 3 months, such suspension commencing immediately.

- Education

Within six months of this decision, Mr. Sedgwick must successfully complete the Education Upgrade Course: "#Ethics, Professionalism, and Risk Reduction".

- Costs

The Industry Member should be ordered to pay costs of \$1,590.00 for the investigation and proceedings, which includes the cost of a forensic document examiner report.

#### Panel Authority on Sanction

6. The Hearing Panel's authority to impose sanction on an industry member whose conduct has been found deserving of sanction is described at section 43 of the *Real Estate Act*:

#### *Decision of Hearing Panel*

*43(1) If a Hearing Panel finds that the conduct of an industry member was conduct deserving of sanction, the Hearing Panel may make any one or more of the following orders:*

- (a) an order cancelling or suspending any authorization issued to the industry member by the Council;*
  - (b) an order reprimanding the industry member;*
  - (c) an order imposing any conditions or restrictions on the industry member and on that industry member's carrying on of the business of an industry member that the Hearing Panel, in its discretion, determines appropriate;*
  - (d) an order requiring the industry member to pay to the Council a fine not exceeding \$25,000, for each finding of conduct deserving of sanction;*
- (d.1) an order prohibiting the industry member from applying for a new authorization for a specified period of time or until one or more*

- conditions are fulfilled by the industry member;*
- (e) *any other order agreed to by the parties.*

## Factors on Sanction

7. A RECA Panel must consider whether a number of factors are relevant when assessing sanction. *Jaswal v Newfoundland (Medical Board)*[TAB 1], lists a number of factors that may be relevant:
- the nature and gravity of the proven allegations
  - the age and experience of the industry member
  - the previous character of the offender and, in particular, the presence or absence of prior complaints or convictions
  - the number of times the offence was proven to have occurred;
  - the role of the industry member in acknowledging what occurred
  - whether the industry member had already suffered serious financial or other penalties as a result of the allegations having been made
  - impact of the incident on the victim if any
  - mitigating circumstances
  - aggravating circumstances
  - the need to promote specific and general deterrence and thereby protect the public and ensure the safe and proper conduct of the profession
  - the need to maintain the public's confidence in the integrity of the profession
  - the degree to which the offensive conduct that was found to have occurred was clearly regarded, by consensus, as being the type of conduct that would fall outside the range of permitted conduct and
  - the range of sentence in other similar cases.
8. General deterrence refers to the effect a sanction issued in one case will have dissuading others to become involved in the same conduct. Specific deterrence refers to the effect a sanction has to correct the conduct of the person who is sanctioned.
9. Specific deterrence can also be achieved by punishment and by corrective or education conditions.

10. Mitigating and aggravating factors refer to evidence which make the conduct less serious (mitigating) or more serious (aggravating). While all of the above factors can be thought of as mitigating or aggravating, items (h) and (i) refer to factors not specifically enumerated in *Jaswal*.

11 The Hearing Panel must consider each relevant factor, give weight to the factor in terms of how it should influence the sanction, consider the mandate of RECA under the *Real Estate Act* and then make an order which complies with section 43.

#### Analysis of the *Jaswal* Factors

##### 12 Age and Experience of the Industry Member

- Mr. Sedgwick is currently 43 years old and has been authorized to trade in real estate since 2001
- Mr. Sedgwick served as Chairman of the Board for the Realtors Association of Edmonton in 2016.
- Given his lengthy experience he ought to have been aware that his conduct in this matter was unacceptable.

##### 13 The Previous Character of the Member

- Mr. Sedgwick does not have a disciplinary history.

##### 14 The Number of Times the Offence was Proven to have Occurred.

- There was one breach of Rule 42(b) and multiple breaches of fail to cooperate with an investigator under section 38(4)(a) of the *Real Estate Act*.

##### 15 The Nature and Gravity of the Proven Allegations

- Mr. Sedgwick's behavior negatively affects professionalism and trust with clients, which is at the core of the real estate industry. His conduct is serious in both nature and gravity as it goes to industry credibility and trust.

## 16 The Need to Maintain Public Confidence in the Industry

- Real estate associates must practice in strict compliance with the Act and the Real Estate Act Rules (the "Rules") in order to maintain the integrity of the industry. Public confidence in the industry is compromised when an associate refuses to follow the Act or the Rules.

In *Adams* [TAB 2] the Alberta Court of Appeal noted on page three that public confidence in a profession should be of utmost importance to disciplinary bodies:

*A professional misconduct hearing involves not only the individual and all the factors that relate to that individual, both favorably and unfavorably, but also the effect of the individual's misconduct on both the individual client and generally on the profession in question. This public dimension is of critical significance to the mandate of professional disciplinary bodies.*

- In *Lambert* (Tab 3) at paragraph 17 a hearing panel for the Law Society of Upper Canada added that a profession's most valuable asset is its collective reputation and this must be considered in determining an appropriate sanction. In *Lambert* the hearing panel writes:

*When determining the appropriate penalty for this misconduct, the panel is guided by the reasons or purposes for a penalty order in discipline matters set out in *Law Society of Upper Canada v. Strugand* and in *Bolton, supra*, in which Sir Thomas Bingham M.R. stated at p. 519, "A profession's most valuable asset is its collective reputation and the confidence which that inspires".*

- Mr. Sedgwick conduct undermines the trust the public puts in real estate professionals when they enter into agreements with their clients.
- A fine and a suspension is required in this matter to maintain and protect public confidence in the Alberta real estate industry."



## 17 The Role of the Member in Acknowledging What Occurred

- Mr. Sedgwick has taken responsibility for his actions. He has signed a section 46 agreement on the facts of this matter.

## 18 The Impact of the Incident on the Complainant

- The complainant was out of pocket over \$3000 for a handwriting analysis and legal costs to hire counsel to withdraw from the fraudulent Exclusive Buyer Representation Agreement.
- The complainants could not continue their search for a new home until they were able to negotiate a release from their agreement with Mr. Sedgwick and the brokerage.
- The complainants had to deal with the stress associated with closing the purchase transaction on their home, as there were still conditions, they had to satisfy while they were trying to end their relationship with Mr. Sedgwick and work with the brokerage.

## 19 Specific and General Deterrence

- There is a need for general deterrence. Industry members must recognize that harm to public confidence of the Alberta real estate industry comes with sanctions.
- Although Mr. Sedgwick does not have a discipline history and there is no evidence that he has engaged in the same conduct prior to or after this particular investigation, his lack of acknowledgement of the gravity of his conduct and his willingness to lay blame with the complainants and their influence on his behaviour, there is a need for specific deterrence.

## 20 Mitigating Circumstances

- Mr. Sedgwick admits that he created a fraudulent Buyer Brokerage Agreement.

- Mr. Sedgwick has agreed to forego the time and expense of a hearing by entering into an Admission of Conduct Deserving Sanction.

## 21. Previous Sanctions in Similar Circumstances

- Section 38(4)(a) Sanction

*Glen Checkley*, RECA 2014 [TAB 4]

This was an administrative penalty issued in June 2014. Mr. Checkley failed to respond to multiple requests for information from a RECA investigator. He eventually provided a response to RECA that he either would not provide the information or was unable to locate or produce other records. He was found to breach section 38(4) of the Act and was issued a penalty of \$10,000.

*Rajwant Kaur Banwait*, RECA 2014 [TAB 5]

This was a decision of a hearing panel in July 2014, with a decision on costs and sanction issued in October 2014. Ms. Banwait was found to breach section 38(4) of the Act because, after notice that she was the subject of a Professional Conduct Review, she made some contact with the investigator by phone and email, but still neglected to provide requested information. This was in spite of the fact that she made assurances that she would comply with the information requests. She was fined \$20,000 for two breaches of section 38(4) and Rule 41(h).

*Aliya Laiji*, RECA 2016 [TAB 6]

This was a Consent Agreement ratified by a Hearing Panel in March 2016. Ms. Laiji was found to have breached Rule 41(a) and 41(h) for providing an altered document to RECA as part of their investigation, for being dishonest with RECA during the investigation, for drafting a fraudulent letter to RECA, and by trying to influence possible witnesses in the investigation. She was fined a global amount of \$20,000 for the breaches of both Rules 41(a) and 41(h).

*Richard Palibroda*, RECA 2008 [TAB 7]

This was a Consent Agreement ratified by a Hearing Panel in January 2008. Mr. Palibroda was found to have breached Rule 41(h) for preparing a letter to the Executive Director giving the appearance

that he had made a disclosure to a different disciplinary body when he had not. He was fined a global amount of \$4,000 for breaches of Rules 15(2)(a), 40 (1)(b), 41(h) and 38(4).

Similar to Ms. Lalji and Mr. Palibroda, Mr. Sedgwick submitted a fraudulent document to RECA in their investigation, in an attempt to mislead or deceive the investigator. Mr. Sedgwick provided a forged document and presented it as an original.

Further, similar to Mr. Checkley and Ms. Banwait, Mr. Sedgwick did not provide documentation requested by the investigator, including a copy of a report from a document examiner. He claimed that he was unable to locate or produce a copy of the report, even though he included quoted excerpts from the report in his written response.

The conduct of Mr. Sedgwick should be considered more egregious than that of Mr. Checkley and Ms. Banwait because, although they did not provide any documentation to RECA, Mr. Sedgwick provided information that was intentionally misleading. His actions were done in an attempt to influence the result of the investigation.

Therefore, it is submitted that an appropriate sanction for the breaches of section 38(4) is a global fine of \$10,000.

- Rule 42(b) Sanction

*Christy Marsh*, RECA 2013 (TAB 8)

This was a Consent Agreement ratified by a Hearing Panel in December 2013. Further, Ms. Marsh was found to have breached Rule 42(b) for hiring an unlicensed property inspector and providing him with a report from a previous property inspection so that he could use it as a template to create a false property inspection report for her client. She then provided this false inspection report to her client and lied about the method of payment for the report. She was fined \$7,000 for this breach of conduct.

*Aliya Lalji*, RECA 2016 (TAB 6)

As cited above, this was a Consent Agreement ratified by a Hearing Panel in March 2016. Ms. Lalji was found to have breached Rule 42(b) for altering contracts, creating false documents, and for

forging signatures on multiple documents that were relied on by third parties. She was fined \$20,000 for these breaches.

Mr. Sedgwick made false statements to his clients, his broker, and to RECA during their investigation. Similar to Ms. Marsh and Ms. Lalji, Mr. Sedgwick was dishonest with multiple parties over a period of time in an attempt to cover his conduct and escape culpability.

Mr. Sedgwick created a fraudulent Exclusive Buyer Representation Agreement. Mr. Sedgwick's conduct is more egregious than Ms. Marsh, as he was directly involved in the creation of a fraudulent document by copying and pasting the signatures of his clients from one agreement to another. Ms. Marsh participated in activities that led to a false document, but there was no clear indication that she solely created a forged inspection report herself.

Mr. Sedgwick's conduct is less egregious when compared to that of Ms. Lalji as his conduct was limited to the forgery of one document and not multiple documents. However, the inducement to create false documents to benefit the industry member is the same in both situations. Therefore, it is submitted that an appropriate sanction for the breach of Rule 42(b) is \$15,000.

#### Suspension

The participation in fraudulent conduct, especially in creating false documents or forging signatures on documents, with the intention to mislead or deceive clients, other industry members, and third parties is particularly egregious and harmful to the industry." As such, additional punitive measures, such as a suspension, may be considered to encourage both specific and general deterrence.

Similar sanctions have been imposed in the following cases:

#### *Stephanie Yuen-Shen Fan. RECA 2012 (TAB7)*

This was a Consent Agreement ratified by a Hearing Panel in September 2012. Ms. Yuen-Shen was found to have breached Rule 42(b) for forging the signature of a tenant on a receipt for the return of a damage deposit on a property that she managed. She used this receipt to mislead the property owner to think that she had returned funds to the tenant when they had not been. She was fined a total global fine of \$12,000 and was suspended for 18 months.

Christy Marsh. RECA 2013 (TAB 8)

As cited above. Ms. Marsh was suspended for 3 months for a breach of Rules 41(a), 41(b), 41(d), 42(b), and 53(c). In particular to Rule 42(b), she participated in fraudulent actions that led to a false inspection report that she presented to her client.

Aliya Lalji, RECA 2016 (TAB 6)

As cited above, this was a Consent Agreement ratified by a Hearing Panel in March 2016. Ms. Lalji was suspended for 18 months for breaches of Rule 42(a), 42(b), 41(h), and 41(a).

In consideration of the above, it is submitted that it is appropriate to suspend Mr. Sedgwick for a period of 3 months.

#### The Agreement between the Executive Director and Industry Member

22. An additional factor is that the parties have reached an agreement on conduct and on sanction taking into account the relevant factors.
23. The Supreme Court of Canada addressed the "public interest" test that should be used when considering whether to depart from an agreed outcome in the case *R v. Anthony Cook (2016)* (TAB 9):

*32 Under the public interest test, a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest. But, what does this threshold mean? Two decisions from the Newfoundland and Labrador Court of Appeal are helpful in this regard.*

*33 In Druken, at para. 29, the court held that a joint submission will bring the administration of justice into disrepute or be contrary to the public interest if, despite the public interest considerations that support imposing it, it is so "markedly out of line with the expectations of reasonable persons aware of the circumstances of the case that they would view it as a break down in the proper functioning of the criminal justice system. And, as stated by the same court in R. v. O. (B.J.), 2010 N.L.C.A. 19 (N.L. C.A.) (CanLII), at para. 56, when assessing a joint submission, trial judges should "avoid rendering a decision that causes an*

*informed and reasonable public to lose confidence in the institution of the courts".*

24. The Court in *Anthoney -Cook* also outlines the procedure decision makers must follow if they are inclined to depart from a joint submission (Para 49 - 60).
25. The Executive Director and Industry Member have considered the factors for an appropriate sanction and submit that this sanction is within an appropriate range that the Panel can accept.
26. Please feel free to express your concerns about the sanction or to ask for further submissions or more information from either party.

All of which is respectfully submitted this 18<sup>th</sup> day of October 2018.

Sincerely,  
(originally signed)  
T.L.  
Counsel for the Executive Director

Steve Sedgwick  
(originally signed)

